



06 APR 2006

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NOVARTIS  
CORPORATE INTELLECTUAL PROPERTY  
ONE HEALTH PLAZA 104/3  
EAST HANOVER NJ 07936-1080

In re Application of	:	DECISION
BARANOWSKA-KORTYLEWICZ	:	
Application No.: 10/521,299	:	
PCT No.: PCT/IB03/03257	:	
Int. Filing Date: 17 July 2003	:	
Priority Date: 19 July 2002	:	
Attorney Docket No.: ON/4-32590A	:	
For: ENHANCING THE EFFECT OF	:	
RADIOIMMUNOTHERAPY IN THE	:	
TREATMENT OF TUMORS	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 14 February 2006.

#### **BACKGROUND**

On 17 July 2003, applicants filed international application PCT/IB03/03257, which designated the U.S. and claimed a priority date of 19 July 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 29 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 January 2005.

On 14 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 20 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date. The NOTIFICATION set a two-month extendable period for reply.

On 14 February 2006, applicants submitted the instant petition under 37 CFR 1.137(b), which was accompanied by, *inter alia*, a declaration of inventors.

### DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the declaration of inventors filed 14 February 2006 is not in compliance with 37 CFR 1.497(a)-(b). The last named inventor is identified in the international application as Christian Pietras while the declaration of inventors identifies him as Kristian Pietras. A satisfactory explanation of the difference between the first name of the inventor as indicated on the declaration and in the international application has not been provided. Nor has a grantable petition under 37 CFR 1.182 regarding a change of name of the inventor or a grantable petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application been provided.

As to item (2), applicant submitted the petition fee on 14 February 2006.

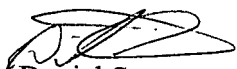
As to item (3), a grantable petition has not yet been filed.

### CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons set forth above.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. A proper response would be a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. Extensions of time under 37 CFR 1.136(a) are available.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs

Application No.: 10/521,299

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Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459